

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TENNESSEE AT KNOXVILLE

FILED

CATHERINE GEBHARDT

Plaintiff, pro per

v.

BEAL FINANCIAL CORPORATION et al,
LORRAINE BROWN; JOYCE LINGER;
JERRY KERLEY; DOUGLAS E.TAYLOR
DOES 1 THROUGH 10

Defendants

2015 OCT -6 A 11:28
Case No.: 3:15-cv-268

U.S. DISTRICT COURT
EASTERN DIST. TENN.

AFFIDAVIT OF JOANN BREITLING IN SUPPORT OF PLAINTIFF'S OBJECTIONS TO MOTIONS TO DISMISS

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Here comes Plaintiff, Catherine Gebhardt, self represented, and incorporates herein her Notice of Related Cases and all pleadings in her Notice of Constitutional Questions filed in the related case LNV Corporation v. Gebhardt, Case No. 3:12-cv-00468 in this court; Case No. 14-5605 in the United States Court of Appeals for the Sixth Circuit, as well as, the Notices of Constitutional Questions filed by the other LNV/Beal victims in the noticed related cases and hereby submits the following affidavit in support of her objections to Defendants' Motions to Dismiss.

Respectfully submitted



Catherine Gebhardt, Pro-per
3753 Thomas Cross Road
Sevierville, TN 37876
865-333-1526

STATE OF TEXAS
COUNTY OF DALLAS

AFFIDAVIT

I JoAnn Breitling am over the age of eighteen (18) years. I reside in Sachse Texas and have never been convicted of a crime. I am fully competent to make this affidavit. The testimony contained herein is of my personal knowledge and experience. I swear under the penalty of perjury and under the laws of Texas and the United States that my testimony herein is true and accurate.

LNV Corporation and its owner, Daniel Andrew Beal, claim that beneficial interest in the deed of trust to my property was conveyed to LNV by assignment. On April 15, 2014 LNV filed an illegally structured "in rem" foreclosure action against our property claiming our home was a vacate eyesore to the neighborhood. Nothing could be further from the truth. My husband, Samuel Breitling, and I bought our home 33 years ago and reared seven children there. Everyone knows we own our home and we have always maintained our property. My husband is a retired Dallas police officer who served our county in the U.S. Marines and the Navy before serving the city of Dallas for 33 years. We are decent law abiding citizens and never in a million years imagined anything like what we've experienced since MGC Mortgage Inc. became the servicer of our mortgage in 2008 could happen to us.

LNV through Dovenmuehle Mortgage Inc. brought this foreclosure action in spite of the fact that we had disputed the debt with its LPS affiliated debt collector Codilis & Stawiarski PC. We realized only though a series of letters that Dovenmuehle was connected to MGC, it turned out through litigation that LNV claimed Dovenmuehle was a "sub-servicer" for MGC.

We had never gotten a welcome letter from MGC. Our prior servicer Wilshire Home Loans told us about the servicing change. We had only been paying Wilshire for eight months; before that we had paid Countrywide Home Loans for seven years. We had refinanced in October 2000 with Aames Home Loans. We only made one payment to them before it was transferred to Weyerhouser Mortgage. We only made a few payments to Weyerhaeuser before it went to Countrywide. When we were told about the transfer to MGC we were not given contact information for them. We had just been approved to refinance at a much better interest rate. To make a long story short MGC failed to provide a payoff statement and thwarted our efforts to refinance. I have attached documentary evidence of such to my affidavit.

We continued to have problems with MCG. They didn't want to take our payments making us suspicious. We insisted MGC take our payments and were told to mail our payments to Graystone Mortgage in Sudbury Massachusetts. MGC also on our IRS 1098 forms understated the interest we paid. I learned later that this was something they did to many other LNV/MGC/Beal victims.

After MGC thwarted our approved refinance in June 2008 we discovered MGC didn't report to credit bureaus so we could not refinance because our credit record showed we had a mortgage but it there was no history of our regular payments since MGC took over servicing. We never felt so defeated in our lives. Having no other choice, in an attempt to reduce or interest, we started the loan modification process with MGC. This ended up being a very stressful and futile exercise. I have attached documents to my affidavit about this.

We became more worried when we saw craigslist employment ads for MGC looking for high school graduates. We drove to 7195 Dallas Parkway, Plano, Texas, the address we had for MGC and discovered it was an empty lot. Later we took photos of this lot for the other LNV/MGC/Beal victims.

We hired an attorney, Emil Lippe, because we became extremely worried we were dealing with a sham company. Our first lawsuit was against Aames and MGC because at that time we believed

Aames still owned our loan and MGC was their servicer. Eventually through discovery we learned that Aames had gone out of business. MGC's attorney had no idea who owned our loan. In April 2010 Mr. Lippe advised us to stop making payments to MGC because they appeared to be a rogue servicer.

During discovery MGC's attorneys bombarded Mr. Lippe with 1000s of pages of documents. (The first attorney for MGC was Baxter Banowsky then on June 30, 2010 MGC substituted counsel with Scott Hayes from Vincent Lopez Serafino Jenevein, P.C.) Mr. Lippe was a one-man law firm and he had another very big case at the time so our case became too time-consuming for him. He had to withdraw and when we got our records from him we discovered that most of the documents had been copied as much as ten times and sent in multiple packets to him. No wonder he became overwhelmed. MGC's attorneys also filed motion for summary judgment after motion for summary judgment. After what we've been through we now think this was on purpose to prevent our case from ever getting to a trial where it can be decided on its merits.

We hired another attorney, Patricia McCartney. In the process of learning about our case, she missed a filing deadline and decided to non-suit then she filed a new lawsuit just against MGC. During all this never once were we or our attorneys informed about Dovenmuehle being a sub-servicer for MGC. If we knew anything about Dovenmuehle back then we would have included them in our lawsuit. MGC's new attorney, Scott Hayes did the same thing to Ms. McCartney as MGC's attorneys did to Mr. Lippe. In the end even though she had won against two motions for summary judgment she broke down in tears at a mediation conference and said she just couldn't do this anymore. The mediator suggested we ask for an abatement to find another attorney which we did. The court gave us 90 days.

Oddly later that night Ms. McCartney phoned us and said if we could pay her another \$10,000 she'd stay on our case. At this point we had lost confidence in her so we declined. I spoke with many attorneys after that trying to find one to take over our case. One of these attorneys told me he had a call from another couple who had been represented by Ms. McCartney and she had done the same thing to them. This made me wonder about what was going on because Ms. McCartney always had us meet with her in her home office; and her home address was on all her documents but the day we had that mediation conference she told us she had an office in that same building which was a high rise in uptown Dallas; an expensive area. About six months later we learned she had opened a second office and had changed her area of expertise to pet trusts and wills.

We continued to look for another attorney but during this time our son, Matthew, who has Down Syndrome, was experiencing life threatening health problems and we had to focus our energy on saving his life. We had no choice but to non-suit so could focus on our son's health. I filed an affidavit about this in my current own case in opposition to false claims made by the "Beal entities" as they have described themselves in their legal pleadings. I've attached this to this affidavit too.

Daniel Andrew Beal has dragged us through seven courts simultaneously since he filed his "in rem" foreclosure complaint and this is not supposed to be able to happen in Texas. Those cases are:

1. *LNV Corporation v. Breitlings et al*, Civil Cause DC-14-04053 in the Dallas County District Court in the 134th Judicial District, filed on April 15, 2014
2. *Breitlings v. LNV Corporation et al*, Civil Cause DC-14-09604 in the Dallas County District Court in the 101st Judicial District, filed on August 29
3. *Breitling et al. v. LNV Corporation et al.*, Civil Action No. 3:14-cv-3322-M (first removal by Beal entities to this U.S. District Court, heard by Judge Barbara Lynn)
4. *LNV Corporation v. Breitlings et al*, Civil Cause No. JD15-00071C in the Justice of the Peace Court Number 2 in Garland Texas, Judge Gerry Cooper

5. *LNV Corporation v. Breitlings et al.*, Civil Cause No. CC-15-00911-C in the County Courts at Law Number 3 in Dallas County, Judge Sally Montgomery
6. *LNV Corporation v. Breitlings et al.*, Civil Cause No. 05-15-0677-CV in the Court of Appeals for the Fifth District of Texas at Dallas, filed on or around May 27, 2015
7. *Breitling et al. v. LNV Corporation et al.*, Civil Action No. 3:15-cv-00703-B (second removal by Beal entities) U.S. District Court, now heard by Judge Jane Boyle.

Unless you live in Dallas you have no idea how powerful and influential Daniel Andrew Beal is. I have spoken with well over a hundred attorneys trying to find one to take our case. At least half of the large firms I have spoken with tell me they have a conflict of interest because they have represented Daniel Andrew Beal or one of his numerous corporations in litigation. The others need huge retainers. Many attorneys have told me they have never before heard of a case like mine and that it appears Daniel Andrew Beal has a vendetta against us and will spend any amount of money to take our home from us. They tell me that to win against Daniel Andrew Beal I'd need to pay many times the value of my home. One attorney had personal experience with how Daniel Andrew Beal operates his corporations and knows about the massive fraud he commits. He told me that as much as he would love to bring Beal to justice he is afraid, for this reason I cannot provide this attorney's identity to the court but as a group we have been filing complaints with the FBI and the U.S. Justice Department and have provided them with the information. We can only pray they follow through and question him in a way that makes him feel safe enough to tell them what he knows.

Like so many LNV/MGC/Beal victims we never intended to have to represent ourselves. Thankfully we all help each other so the process is a little easier but we know we are still seriously disadvantaged. Even though Daniel Andrew Beal's "banks" and other financial institutions are nothing like a Bank of America, or a JPMorgan Chase or any other "real" bank the courts believe they are; and just don't want to believe us about what he's been doing. The way he misuses the court process prevents us from being heard. An example of how he files multiple copies of the same document to confuse judges and overwhelm opposing attorneys is seen in his "in rem" foreclosure complaint against us. He filed seven copies of one debt collection letter written by his LPS affiliated debt collector Codilis & Stawiarski's employee attorney Jeff Hardawy who represented LNV in their foreclosure complaint against us in 2014.

Codilis & Stawiarski identified themselves as a debt collector for Dovenmuehle in their first letter which included information about our rights under the Fair Debt Collection Practices Act (FDCPA) to dispute the debt which we did. Codilis & Stawiarski failed to investigate our debt dispute. There was a chain of letters between us and Codilis & Stawiarski. They did not submit these letters to the court because they wanted it to look like something it was not. Codilis & Stawiarski's debt collection practises do not comply with what we read in the FDCPA. Scott Hayes also sent multiple copies of documents to our prior attorneys which overwhelmed them and increased our litigation cost. Beal knows we are disabled senior citizens with a limited income and at some point we will be unable to afford an attorney while he has billions of dollars at his disposal. Most of the LNV/MGC/Beal victims had attorneys at one time but the way Beal has his attorneys operate it becomes impossible to pay them enough to continue.

Something else that has happened is that the attorneys we hire all the sudden start working against our interest. This happened to me, to Cathy Gebhardt and to the Swifts. LNV attempted to have us evicted from our home while our case was stuck in federal court awaiting remand already recommended by the magistrate judge after the first time LNV removed. We received notice that LNV filed an eviction complaint on December 31, 2015, New Year's Eve. We feel this was timed to ruin any chance we might have had to enjoy the holidays with our family.

Evictions in Texas are heard by the Justice of the Peace Courts and when I phoned the court to find out how to file an answer the clerk told me I wasn't supposed to file an answer. She told me to just bring everything with me to the court for the hearing on January 26, 2015. I paid to have a jury. One of our daughters, Annie, came with me to the hearing and I took all the documents from the federal court which LNV and the other "Beal entities" had removed from the State court along with evidence. The magistrate judge had already filed his findings and recommendations to remand and Judge Barbara Lynn had ordered a stay in the case because the "Beal entities" kept filing motions causing us to have to respond when the federal court was refusing jurisdiction. As soon as we got to the J.P. court I went to the clerk's office to file my pleadings and evidence and again was told to just take them to the court. This seemed very unusual but I did as I was told. Later I learned that I did have a right to file an answer all along and was intentionally prevented from doing so.

At the hearing I overheard LNV's Counsel Luke Madole whisper to Judge Jerry Cooper to remember the motion in limine. I immediately asked "What motion in limine?" and told the judge I knew nothing about a motion in limine. Both men ignored my question. Before the hearing I had been given a packet by LNV's Counsel Luke Madole and Sammy Hooda and no motion in limine was included in this packet. It wasn't until after the hearing that we received a copy of the motion in limine which was used to prevent us from presenting a case and from being heard. There can be no question that LNV's Counsel Luke Madole and Judge Jerry Cooper colluded and conspired prior to the hearing to interfere with our civil rights and prevent us from presenting a case to the jury. This is not supposed to happen in the United States.

I have attached to this affidavit the affidavits filed into our case (LNV's second removal to federal court, Case No. 3:15-cv-00703-B), of myself, our daughter Annie who was at the hearing in Judge Jerry Cooper's court and who was also at LNV's illegal sale of our home to itself which was filmed by WFAA reporter Brett Shipp. We hired attorney Wade Kricken, who agreed to represent us the night before for the eviction appeal hearing on May 8, 2015 before Judge Sally Montgomery (which according to Texas law was supposed to be a new trial de novo). Instead of hearing our claims Judge Sally Montgomery looked to LNV's Counsel Luke Madole for her decision. Mr. Kricken provided an affidavit to our court about his experience at the May 8, 2015 hearing and about his prior experiences with Judge Montgomery because he thought she behaved out-of-character at our hearing.

We hired Mr. Kricken at the last minute because the attorney we originally hired, J.D. Milkes, began to confer with LNV's Counsel Marc Cabrera from Locke Lord LLP's Dallas office and agree to joint motions without our knowledge or approval that benefited LNV and harmed us. We began to realize he was actually working against us when we discovered he never enrolled in the eviction case (the main reason we hired him) and lied to us twice about this. He also failed to do anything he told us he would do allowing LNV to once again remove our case to federal court. We fired him on April 19, 2015. I've attached some of our pleadings and affidavits to support this affidavit. Even our Judge, the Honorable Jane Boyle agreed that Mr. Milks harmed us and discounted everything he filed for us in her court. Recently I discovered that J.D. Milks has now opened his own law firm in an upscale area of Arlington when before his office was in an older run-down area of town. He advertises himself as a family and divorce lawyer now.

Some other things I want to point out about our case that is consistent with what we know from talking with other LNV/MGC/Beal victims and seeing their documents is that the "Beal entities" do not have an accurate payment history for any of us; they make it up as they go. In 2013 MGC told us they had no payment history. None of us have ever received any communication from LNV. When we call LNV's phone number we got a tape recorded message that we had reached CLMG Corporation. None of us ever received welcome letters from MGC. In our earlier cases against MGC which was all about servicing fraud we consistently complained that they had not sent this. MGC never disputed this

and never produced a letter. Brett Shipp did a series of interviews with the Beal camp, and even interviewed Daniel Andrew Beal himself. During these interviews they told Brett Shipp that they could guarantee we were in receipt of our welcome letter. Brett asked us if we had received it yet and we said no; then when I was looking through a packet of documents by LNV's Counsel Jeff Hardaway on Saturday Agust 30, 2014, I found a 6-page welcome letter dated June 15, 2008. Besides the fact that we never received this letter in 2008, we knew this was a fake created after the fact because Brett Shipp was questioning Beal, because June 15, 2008 was a Sunday; and at the top of all 6 pages was "page 2". The letter was not signed. We sent a copy of it to Brett Shipp. At a later interview the Beal camp showed Brett Shipp our alleged "original" note which they refuse to show us. The welcome letter they showed Brett Shipp that day was signed when the one we got was not. He told them the one the Breitlings got did not look like the one they showed him. Brett told us they then claimed to have sent us two letters. The Beal people are liars and seem to be unable to tell the truth.

We also got a payoff letter like Cathy Gebhart's with the same Bank of America fed-wire account that turned out to be a legacy global account with an overseas beneficiary; not LNV or MGC. And like all the other victims we have a break in our chain of title for which Daniel Andrew Beal creates counterfeit documents to "correct" so he can foreclose on our property.

In our case the assignment of deed of trust coveying beneficial interest to LNV was signed by K.C. Wilson as an attorney in fact for Ellington Mortgage Partners and notarized by Jeanne Stafford a freelance California notary. The prior assignment of deed of trust was signed by Christopher Corcoran a Vice President of Deutsche Bank, coveying interest to Ellington. Both these assignments were executed on March 21, 2008. I phoned Todd C. Craig at Ellington who told me Ellington had no paperwork specific to their aquision of "the asset" and this coveyance of deed never happened as specified in the assignment. He sent me an email confirming what he told me over the phone. I sent Brett Shipp these documents, which he sent to Beal for comment asking how they could have occurred on the same day. Jim Chambliss the Senior Vice President of Corporate Communications for Beal Service Corporation sent Brett an email response stating:

"The assignments you provided were being completed as a requirement of LNV's purchase of loans from Ellington Mortgage Partners, LP (Ellington). Ellington did not have completed assignments from Deutsche Bank ("DB") of certain deeds of trust. LNV required that these assignments be completed and filed to ensure that the liens and debt instruments were properly assigned from DB to Ellington prior to purchase by LNV. Our personnel were in direct communication with both DB (including Mr. Corcoran) and Ellington (including Mr. Wilson) to complete the required assignment documentation in connection with LNV's purchase. When LNV personnel met with representatives of DB and Ellington in 2008, including Mr. Corcoran and Mr. Wilson, the meeting took place in the same building, so having the assignment dated and completed on the same date does not surprise us. LNV always sought to purchase loans with completed chain of title on the deeds of trust."s

Brett forwarded Jim Chambliss' email to us for comment. I had phoned Jeanne Stafford who told me that she and K.C. Wilson signed 500 to 800 such documents a day for weeks. She told me that she and K.C. Wilson were the only two people there. I told Brett Shipp about this and he also phoned Jeanne Stafford who told him the same thing she told me. No one from LNV was in the room with her and K.C. Wilson; and neither was Christopher Corcoran. Most likely Christopher Corcoran's signature was made by K.C. Wilson. Again Beal's people lie.

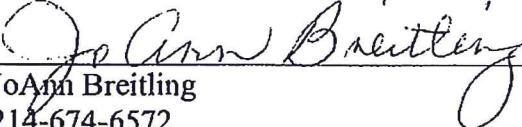
LNV's Counsel Jeff Hardaway included as exhibits to LNV's foreclosure complaint a page with two endorsements by Amy Brackett as Assistant Secretary for Aames – oddly these two "Amy Brackett" signatures look like they were made by two different people. Above the second signature is a blank

line under the words "Pay to the order of" and the words, "without recourse to Aames Capital Corporation a California Corporation" below this line then on a line below that is the second "Amy Brackett" signature. Underneath all this is a stamp "Bankers Trust Company of California, N.A. in Trust for the benefit of the holders of the Aames Mortgage Trust 2000-2 Mortgage Pass-Through Certificates, Series 2000-2." They included two documents each titled "Assignment of Security Instrument" both with the word "REDACTED" stamped on them. I've attached these documents with comments in red ink to show why they are false documents. I've included a photo I took of the one with the October 26, 2008 execution date because Jeff Hardaway had sent me via mail another copy of this document which was clearer and easier to read than the one attached to LNV's complaint.

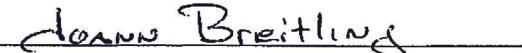
A few weeks ago I spoke with another homeowner who was attempting to refinance his mortgage and was told he had a break in his chain of title so would not be able to do this. Although his case has nothing to do with LNV like us they had refinanced with Aames in 2000. They had a similar assignment of deed endorsed by Amy Brackett as Assistant Secretary for Aames also executed in October 2000. This is where he was told by his title company the break in his chain of title was. His legal team discovered Amy Brackett did not actually exist. Which explains why her signatures look like more than one person was making them.

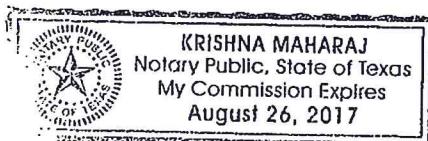
Another oddity in all this is that LNV sued GMAC in its foreclosure complaint against us. I didn't understand why they would do this since GMAC had nothing to do with our mortgage. Several of the other LNV/MGC/Beal victims have GMAC in their chain of title, so I asked these victims what they thought about this. We noticed that in LNV's exhibits they included documents that showed GMAC had purchased Norwest Mortgage. When we first bought our home it was the practice to assume the seller's mortgage because the interest rates were usually lower that way, and we had assumed a Norwest mortgage. This mortgage was of course, paid off when we refinanced with Aames. It turned out LNV/MGC/Beal victim Denise Subramaniam's original mortgage was also with Norwest. This made her wonder if Norwest had filed a satisfaction of mortgage with her county because her mortgage also had nothing to do with GMAC but GMAC claimed to have a conveyance of interest in her deed of trust in 2006 after an incurable break in her chain of title had already occurred in 2004. She discovered that a satisfaction of mortgage had been filed by Wells Fargo as a successor to Norwest. How could Norwest have become GMAC as LNV claims in my case if it later became Wells Fargo in Denise's case?

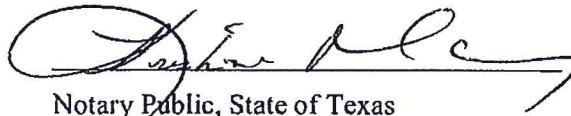
Further Affiant sayeth not.


JoAnn Breitling
214-674-6572

Personally appeared before me, a notary public in and for Dallas County Texas, the above signed

 on the 5th day of September, 2015.




Notary Public, State of Texas